
SENATE BILL No. 452

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-10.

Synopsis: Self-liquidating projects at port commission. Expands the definition of self-liquidating project for purposes of the port commission statute to include projects: (1) for which payments under leases from sources other than rentals are available for debt service and maintenance expenses; or (2) that are structured in such a manner that there is no recourse against the state or the port commission. (Under current law, self-liquidating projects are exempt from certain provisions concerning interest rates on bonds, bond sale procedures, and contracting procedures.) Makes conforming changes.

Effective: July 1, 2005.

Kenley

January 18, 2005, read first time and referred to Committee on Tax and Fiscal Policy.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 452

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-10-1-16 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. In the discretion of
3 the commission any bonds issued under the provisions of this act may
4 be secured by a trust agreement by and between the commission and a
5 corporate trustee, which may be any trust company or bank having the
6 powers of a trust company within the state, except as provided in
7 IC 8-10-4. Any resolution adopted by the commission providing for the
8 issuance of revenue bonds and any trust agreement pursuant to which
9 such bonds are issued may pledge or assign all or any portion of the
10 revenues received or to be received by the commission except such part
11 as may be necessary to pay the cost of the commission's administrative
12 expenses, operation, maintenance and repair and to provide reserves
13 therefor and depreciation reserves required by any bond resolution
14 adopted or trust agreement executed by the commission, but the
15 commission shall not convey or mortgage any port or project or any
16 part thereof, except for self liquidating **or nonrecourse** projects under
17 IC 8-10-4. In authorizing the issuance of bonds for any particular port

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or project, the commission may limit the amount of such bonds that
 may be issued as a first lien and charge against the revenues pledged
 to the payment of such bonds or the commission may authorize the
 issuance from time to time thereafter of additional bonds secured by the
 same lien to provide funds for the completion of the port or project on
 account of which the original bonds were issued, or to provide funds to
 pay the cost of additional projects undertaken in connection with the
 development of the port or project, or for both such purposes. Such
 additional bonds shall be issued on such terms and conditions as may
 be provided in the bond resolution or resolutions adopted by the
 commission and in the trust agreement or any agreement supplemental
 thereto and may be secured equally and ratably without preference,
 priority or distinction with the original issue of bonds or may be made
 junior thereto. Any pledge or assignment made by the commission
 pursuant hereto shall be valid and binding from the time that the pledge
 or assignment is made and the revenues so pledged and thereafter
 received by the commission shall immediately be subject to the lien of
 such pledge or assignment without physical delivery thereof or further
 act. The lien of such pledge or assignment shall be valid and binding
 against all parties having claims of any kind in tort, contract or
 otherwise against the commission irrespective of whether such parties
 have notice thereof. Neither the resolution nor any trust agreement by
 which a pledge is created or assignment made need be filed or recorded
 except in the records of the commission. Any such trust agreement or
 any resolution providing for the issuance of such bonds may contain
 such provisions for protecting and enforcing the rights and remedies of
 the bondholders as may be reasonable and proper and not in violation
 of law, including, but not limited to, covenants setting forth the duties
 of the commission in relation to the acquisition of property and the
 construction, improvement, maintenance, repair, operation and
 insurance of the port or project in connection with which such bonds
 shall have been authorized, the rates of fees, tolls, rentals or other
 charges, to be collected for the use of the project, and the custody,
 safeguarding and application of all moneys, and provisions for the
 employment of consulting engineers in connection with the
 construction or operation of such project. It shall be lawful for any bank
 or trust company incorporated under the laws of the state which may
 act as depository of the proceeds of bonds or other funds of the
 commission, to furnish such indemnifying bonds or to pledge such
 securities as may be required by the commission. Any such trust
 agreement may set forth the rights and remedies of the bondholders and
 of the trustee, and may restrict the individual right of action by

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bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition to the foregoing, any such trust agreement may contain such other provisions as the commission may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the port or project.

SECTION 2. IC 8-10-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) As used in this chapter, "self-liquidating **or nonrecourse** project" ~~shall mean~~ means:

(1) a project for which a lease or leases have been executed providing for payment ~~of rental~~ in an amount at least sufficient to pay:

(A) the interest and principal of ~~such the~~ bonds to be issued to finance the cost of ~~such the~~ project; and further providing for the payment by the lessee or lessees of

(B) all costs of maintenance, repair, and insurance of ~~such the~~ project; or

(2) a project that is structured in such a manner that there is no recourse against the state or the Indiana port commission.

(b) Other words and terms used in this chapter shall have the same meaning as in other provisions of this article, unless otherwise specifically provided.

SECTION 3. IC 8-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. In addition to the powers conferred upon the Indiana port commission by other provisions of this article, the commission, in connection with any self-liquidating **or nonrecourse** project, shall have the following powers notwithstanding any other provision of this article to the contrary:

~~(a)~~ (1) The revenue bonds issued by the commission to finance the cost of such self-liquidating **or nonrecourse** project may be issued without regard to any maximum interest rate limitation in this article or any other law.

~~(b)~~ (2) The revenue bonds issued by the commission to finance the cost of such self-liquidating **or nonrecourse** project may be sold in such manner, either at public or private sale, as the commission may determine, and the provisions of IC 4-1-5 shall not be applicable to such sale.

~~(c)~~ (3) IC 4-13.6, IC 5-16-1, IC 5-16-2, IC 5-16-3, IC 5-16-5, IC 5-16-5.5, IC 5-16-6, IC 5-16-6.5, IC 5-16-8, IC 5-16-9, IC 5-16-10, IC 5-16-11, IC 5-16-11.1, IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to a project to be

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- 1 leased to a private party whose payments are expected to be
- 2 sufficient to pay all debt service on bonds issued by the
- 3 commission to finance the project.

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